

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES (SMC), JAIPUR

श्री रमेश सी शर्मा, लेखा सदस्य के समक्ष
BEFORE: SHRI RAMESH C SHARMA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 1296/JP/2018
निर्धारण वर्ष / Assessment Year : 2015-16

Shri Gopal Mundra, 101, Krishna Kripa, Subhash Nagar Shopping Centre, Jaipur.	बनाम Vs.	I.T.O., Ward 4(1), Jaipur.
स्थायी लेखा सं./जीआईआर सं./ PAN/GIR No.: AINPM 6185 D		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri S.L. Poddar (Adv)
राजस्व की ओर से / Revenue by : Ms. Anuradha (JCIT)

सुनवाई की तारीख / Date of Hearing : 18/03/2019
उदघोषणा की तारीख / Date of Pronouncement : 02/04/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This is an appeal filed by the assessee against the order of Id.CIT(A), Ajmer dated 25/10/2018 for the A.Y. 2015-16 in the matter of order passed U/s 143(3) of the Income Tax Act, 1961 (in short the Act).

2. In this appeal, the assessee is aggrieved for trading addition so upheld by the Id. CIT(A) by applying higher N.P. rate on the enhanced turnover of assessee. The assessee is also aggrieved for upholding the part of the addition made U/s 69 of the Act amounting to Rs. 6,14,531/-.

3. Rival contentions have been heard and record perused. The facts in brief are that the assessee derives income from retail business of papad, mangodi, spices etc. The return of income was filed disclosing gross profit of Rs. 12,27,950/- and net profit of Rs. 6,53,731/- on total sales of Rs. 1,47,44,698/- declaring net profit rate of 4.43%. During the course of assessment proceedings, the Assessing Officer found that the assessee had maintained following five bank accounts:

1. City Union Bank
2. Bank of Baroda
3. PNB
4. SBI
5. ICICI Bank

The AO has given the finding that the appellant had not disclosed the bank accounts maintained with PNB, SBI AND ICICI Bank Ltd. in the books of accounts. Hence he treated the entire credit of Rs.1,34,47,619/- appearing in these three bank accounts as undisclosed turnover of the appellant and worked out the total turnover of the appellant at Rs. 2,81,92,317/- (Rs. 1,47,44,698 + Rs. 1,34,47,619) and net profit @8.33% was computed on the total turnover of Rs. 2,81,92,317/- at Rs. 23,48,420/-.

4. By the impugned order, the Id. CIT(A) given credit of Rs. 80,90,350/- which he found that the cash was withdrawn by the

assessee from one bank account and deposited in another bank account. As per the Id. CIT(A), it is not a part of sale but merely deposit of cash withdrawn from the bank account. However, the Id. CIT(A) has not accepted the assessee's contention with regard to deposit of cash in the bank account out of realization of old debtors in so far as the assessee has not furnished any details of debtors as on 31/3/2014 alongwith the return filed for the A.Y. 2014-15. I found that in the earlier year, the assessee had shown the turnover of Rs. 60,43,444/- and return was filed under presumptive tax scheme wherein no details of debtors, creditors, stock etc. was given. Under these facts and circumstances it is reasonable to presume that looking to the nature of the assessee's business, two months sales remained outstanding in the form of debtors. Accordingly we direct the Assessing Officer to give further credit of Rs. 10.00 lacs while upholding the addition on account of enhanced sale. I mean that out of enhanced sales as upheld by the Id. CIT(A), a further credit of Rs. 10.00 lacs is required to be given and on the balance, the Assessing Officer is to estimate the profit. Looking to the nature of the assessee trade, estimation of net profit @ 6% as against N.P. disclosed by the assessee @ 4.43% will be reasonable without given any reason the Assessing Officer has applied NP rate of 8.33% which was offered by

the assessee on the sales of Rs. 60,43,444/- in the year ending on 31/3/2014. During the year under consideration the turnover of assessee has increased substantially which is possible at a sacrifice of some margin profit rate. Thus, there is no justification for applying the NP rate at 8.33% of earlier year wherein the assessee has filed return U/s 44AD of the Act. Accordingly the Assessing Officer is directed to recompute the addition by applying 6% NP rate on the turnover suggested by me hereinabove.

5. The Assessing Officer has also made addition U/s 69 of the Act with respect to stock in trade amount to Rs. 19,09,611/- and cash balance of Rs. 62,730/- on the plea that the assessee has not filed any details of such stock and cash in hand in its return of earlier year. By the impugned order, the Id. CIT(A) had given credit of Rs. 13,57,810/- by observing that the assessee had shown closing stock with the VAT return and the VAT department has accepted the return filed by the assessee wherein closing stock was shown at Rs. 13,57,810/-. Thus, there is no reason to give any further relief to the assessee in respect of closing stock. I found that the Id. CIT(A) has also accepted the cash balance of Rs. 62,730/-. Accordingly, ground No. 2 raised by the assessee is dismissed.

6. In the result, appeal of the assessee is allowed in part.

Order pronounced in the open court on 2nd April, 2019

Sd/-
(रमेश सी शर्मा)
(RAMESH C SHARMA)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 2nd April, 2019

*Ranjan

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Shri Gopal Mundra, Jaipur.
2. प्रत्यर्थी / The Respondent- The I.T.O., Ward 4(1), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 1296/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar